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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 April 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,3,6-9,11,14-17,19,22-29 and 33</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,3,6-9,11,14-17,19,22-29 and 33</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>23 June 2003</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Request for Continued Examination received on April 7, 2009 has been

acknowledged. Claims 1, 3, 6-9, 11, 14-17, 19, 22-29 and 33 are currently pending and

have been considered below.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 7,

2009 has been entered.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

5.   In claim 33, the recited term "indivisible space" renders the claim indefinite. It is

unclear to the Examiner how any room is "indivisible" since any room no matter how

small or large can be divided. The applicant has stated in the specification:

> Space product 110 may also be structured as category space 114 or specific
>
> space 115 to optimize space utilization. The specific space 115 may be

indivisible space 116 (space that cannot be subdivided) or configured space 117.

Configured space 117, which is a combination of indivisible spaces, and category

space 114 can be used to optimize use of available space as described below in

reference to Figure 4.

It is still unclear to the Examiner as to what "indivisible space" is since it is

described as "space that cannot be subdivided" which the Examiner finds to be just as

indefinite, since any space can be subdivided no matter how small or large. While the

applicant argues that "anyone having stepped into a hotel event space with removable

walls" would know the meaning of this team the Examiner respectfully disagrees. See

response to arguments below.

Claim Rejections - 35 USC § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

7.   Claims 1, 3, 6-8, 25, 28-29 and 33 are rejected under 35 U.S.C. 101 because

based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's

guidance to examiner is that a § 101 process must (1) be tied to another a particular

apparatus or (2) transform underlying subject matter (such as an article or materials) to

a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook,

437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane

v. Deener, 94 U.S. 780, 787-88 (1876).

To qualify as a § 101 statutory process, the claim should recite the particular

machine or apparatus (the thing or product) to which it is tied, for example by identifying

the apparatus that accomplishes the method steps, or positively recite the subject

matter that is being transformed, for example by identifying the material that is being

changed to a different state.

　　　　There are two corollaries to the machine-or-transformation test. First, a mere

field-of-use limitation is generally insufficient to render an otherwise ineligible method

claim patent-eligible. This means the machine or transformation must impose

meaningful limits on the method claim's scope to pass the test. Second, insignificant

extra-solution activity will not transform an unpatentable principle into a patentable

process. This means reciting a specific machine or a particular transformation of a

specific article in an insignificant step, such as data gathering or outputting, is not

sufficient to pass the test.

　　　　Here, applicant's method steps, fail the first prong of the new Federal Circuit

decision since they are not substantially tied to particular machine and can be

performed without the use of a particular apparatus. While the applicant has recited a

digital processing system receiving a request this step is considered to be insignificant

extra-solution activity, since it is reciting a machine tied to an insignificant step such as

data gathering. Further the machine recited a digital processing system appears to the

Examiner to be a general purpose computer and not a particular machine designed to

carry out significant steps, that is to say it is a general purpose computer merely

gathering information. Since the rest of the recited limitations fail to recited a particular

machine carrying out these steps, the invention as claimed does not qualify under §101

as a statutory process. Further, applicant's method steps fail the second prong of the

test because the claims do not act to transform underlying subject matter from one state

to another.

8.   Claims 9, 11, 14-16 and 26 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter. Computer-readable

medium as described in the specification pages 20 through 21 is defined as being

communication connection that comprises of a wireless signal (carrier wave) and at this

time signals are currently considered forms of energy and are non-statutory.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   **Claims 1, 3, 6-9, 11, 14-17, 19, 22-29 and 33 are rejected under 35 U.S.C.**

103(a) as being unpatentable over Bingham et al. (US 2002/0069094) hereafter

Bingham, in view of Patullo et al. (US 2005/0033613) hereafter Patullo, further in

view of Edward B. Fiske: "Christmas in Williamsburg" (Dec. 25, 1983) hereafter

Fiske.

       As per claims 1, 9 and 17, Bingham discloses a method, a machine readable

medium for providing instructions which cause the processor to perform the method

(Page 3, paragraph 0025), and a system (Figures 1, 2a, 2b, and 3) for performing the method comprising:

a digital processing system (Internet based system) receiving a request (Page 1, paragraph 0008; discloses a reservation request is received from a user) for a function space (resources for meetings), the digital processing system comprising availability information for a plurality of function spaces at a plurality of properties (multiple meeting facility resources) and a set of pricing rules (Examiner interprets this as rules for determining the price of the space), Bingham discloses received meeting facility criteria including meeting room and guest room meeting facility resources. In the alternative embodiment, the received meeting facility criteria also include desired food and beverage service meeting facility resources (paragraph 0029) and a price for the defined meeting package is generated based upon the retrieved customer profile (block 516) (paragraph 0033), the request comprising a plurality of criteria, (paragraph 0008; discloses that the meeting package may be defined or reserved based on various meeting facility criteria input by the user, real time facility inventory, or facility reservation rules), (Figure 4 and paragraph 0029; disclose meeting facility criteria are received (block 404) from the user via a graphical interface), (paragraph 30) a customer profile, a reservation rule, a reservation quota, and a meeting facility inventory are retrieved. Thereafter the retrieved reservation rule is applied to determine whether the user input meeting facility criteria satisfy the generated based upon the retrieved customer profile. In one embodiment, customer profile includes a customer type designation such as corporate or government which entitles the designated customer to

reduced prices for hotel guest room and other services (pricing rule corresponding to a

criterion) (paragraph 0038) a meeting facility employee may adjust room pricing values

such as the corporate room rate and resource availability such as the number or booked

or available meeting rooms Figure 4 (404), (410);

      determining an availability of the requested function space based upon some or

all of the availability information and one or more of the criterion (Figure 5 (512) Are the

Specified Meeting Facility Resources Available for Reservation?, page 1, paragraph

0008, page 4, paragraph 0033);

      determining that the requested function space satisfying the one or more of the

plurality of criteria is unavailable (page 4, paragraph 0033; discloses that method

includes determining if the requested function space is unavailable based on one or

more of the plurality of criteria);

      automatically providing a real-time price quote for the requested function space

based upon the set of pricing rules (Paragraph 0033; discloses if sufficient meeting

facility resources are available to cover those desired by the user as described in the

meeting facility criteria then a meeting package definition is generated using the

specified meeting facility resources (block 514), a price for the defined meeting package

is generated based upon the retrieved customer profile (block 516), and the meeting

package definition; Figure 11 Reserve room for more then 7 nights and get 10% off;

Figure 5 (516) Price the Meeting Package Based on the Customer Profile; (Paragraph

0008) the meeting package may be defined or reserved based on various meeting

facility criteria input by the user, real time facility inventory data, or facility reservation

rules; real time (Page 1, paragraph 0008) a customer profile associated with the user

may be used to determine the price of the meeting package or its component resources.

The meeting package may be defined or reserved based on various meeting facility

criteria input by the user, real time facility inventory data, or facility reservation rules.

Figure 5 [516], page 4, paragraph 0033, page 5, paragraph 0038).

receiving an acceptance of the price for the requested function space from the

user; and establishing a reservation for the requested function space (Figure 4 (416),

Figure 5 (516), Figure 12 (confirmation number, grand total), page 5, paragraph 0037).

Bingham does not explicitly disclose providing a price quote for the request when

it is determined that the request is unavailable or that if said function space is

unavailable, said reservation comprises an overbooking.

The applicant's specification discloses:

[0012] Embodiments of the invention provide systems and methods to provide an

availability and price determination in response to a request for function space.

For one embodiment, **a request** for a function space is received at a digital

processing system that contains availability information and a set of pricing rules

for one or more function spaces. The request includes a plurality of criteria. **An

availability of the requested function space is determined based upon the

availability information and one or more of the criterion. A price for the

requested function space is determined based upon the set of pricing rules

and one or more of the criterion.**

[0034] As described, embodiments of the invention ensure that a customer is quickly provided with a determination of availability and a price quote. This increases the likelihood that a reservation will be established. Further, embodiments of the invention help to ensure that all of the numerous and complex pricing rules will be employed to produce an accurate price quote. This helps to ensure that the price quote provided is competitive and Exploits market conditions to increase revenue. **For alternative embodiments, a price quote may be determined even where the requested function space is unavailable to establish an optioned reservation. The function space is maintained as unreserved and if it subsequently becomes available, a reservation is established.**

[0038] For purposes of illustrating an embodiment of the invention, central reservation DPS 305 may be a central processing system and a database for a multi-location hotel chain with customers and local sales manages accessing the reservation management system 306 to obtain availability and pricing information for function space at one or more individual properties. For example, a customer could enter the specifics of **a function space reservation request** via a hotel chain website and receive, in fairly short order, a definitive response in regards to availability and pricing for the requested function space. This means the customer no longer has to wait hours or das for a response and is therefore less

likely to inquire of competitors. **Additionally, or alternatively, a sales manager at an individual hotel property could enter the specifics of a function space reservation request and receive a price quote based upon consideration of a number of complex factors aimed at increasing revenue. This decreases the likelihood that a sales manager will fail to consider one or more revenue-increasing pricing factors.**

Therefore, the Examiner is interpreting this limitation as simply providing a price quote without regard to availability.

Patullo discloses direct price quote requests (Figures 4 and 5; discloses that the price quote given does not guarantee or promise availability of the desired suite, it simply gives a price quote based on the users search criteria) even if the request is unavailable on certain dates (paragraphs 0023, 0027 and 0031; disclose that this information is given out before the user is aware if there is availability in their requested room. While Figure 9, teaches that a room is not available from 5/1-5/6 with out price that is because the room is not for sale at all, as taught by paragraph 0033, this does not teach away from the concept of providing a price for a room for sale regardless of it is available, since this room is not for sale at all. A room might not be for sale at all for numerous reasons such as renovations or damage to property in this case the user could not be put on a waiting list since no matter what the room simply will not be up for sale or rental).

Therefore, from this teaching of Patullo, it would have been obvious to one of ordinary skill in the art to incorporate into the reservation system of Bingham the price quotes taught in Patullo so as to provide enhanced convenience for the user by providing the user with pricing package information after entry of the information into the request display. One would be motivated to include this information so that a user can have an idea of what prices are for different amenities and to comparison shop, finding out if they price information is in line with market rates. Often people use price quotes to get an idea how much a particular reservation request is going to cost and use these quotes in making a determination of which facility to commit to for a reservation. Therefore, it would have been obvious to provide a price quote to a user searching for reservation information since in the reservation industry it is common business practice to provide a price quote to a user such as if one calls a hotel to get rates on single rooms, double rooms, luxury suites, rooms with balconies over the ocean, etc.

The combination of Bingham and Patullo teaches the above-enclosed invention, but fail to explicitly disclose wherein establishing the reservation for the requested function space further comprises accepting the reservation when the requested function space is unavailable, said reservation comprises an overbooking. The Examiner is taking this limitation to mean that when the space is not available the user is put on a waiting list or a list of people to contact if the space becomes available, based on applicants specification paragraph [0056].

Fiske, which talks about hotels reserving space in advance, teaches that guests can be placed on a waiting list so if a desired space becomes available due to another

guest canceling they will be asked to fill the spot (Page 1, paragraph 2, lines 24-28;
disclose that the hotel has reservations made for a particular spot in a hotel made
during a particular and when they are full they keep an active waiting list to help them
ensure the profit they expected and the customers with the space they desired).

Therefore, from this teaching of Fiske, it would have been obvious to one having
ordinary skill in the art at the time the invention was made to modify the reservation
system provided by the combination of Bingham and Patullo, with the use of waiting lists
taught by Fiske, for the purpose of providing flexible customers a chance to get their
desired spot and to also ensure that the business makes the profit they are expecting so
there is not lost revenue.

As per claims 3, 11 and 19, Bingham discloses a method, medium and system
wherein the plurality of properties are individual hotels of a hotel chain (Figures 11 and
12).

As per claims 6, 14 and 22, Bingham discloses a method, medium and system
further comprising receiving a rejection of the price for the requested function space
from the user; and providing alternatives to one or more of the plurality of criteria in real-
time (Figures 4 and 5, Figure 11 alternatives are presented with different prices).

As per claims 7, 15 and 23, Bingham discloses a method, medium and system
wherein establishing a reservation for the requested function space includes allocating a
function space of a specified category, the category specified by one or more category
related criteria included in the plurality of criteria of the request (Figures 4 and 5, pages
1, paragraph 0008).

As per claims 8, 16 and 24, Bingham discloses a method, medium and system wherein the category related criteria include one or more criterion selected from the group consisting of attendance (Figure 7 (706), event type (customer type Figure 4)(page 4, paragraph 0033), setup styles (Figure 9 (906)(Setup Classroom) and area (Figure 7 (708)(Figures 7-14).

As per claims 25-27, Bingham discloses wherein the criteria includes selected from a group of criteria consisting of date (Figure 4), day-part, (Figure 9), current demand (Figure 11) and supplementary sales [0029][0034] (supplementary sales as defined by applicant in the specification in paragraph [49]. For example, the price at which a ballroom for a particular event is rented may be determined by consideration of many factors, including the profit on supplementary sales, such as food and beverages served at the event, and the number of guest rooms rented in conjunction with the Event – Bingham discloses received meeting facility criteria including meeting room and guest room meeting facility resources. In the alternative embodiment, the received meeting facility criteria also include desired food and beverage service meeting facility resources [0029] and a price for the defined meeting package is generated based upon the retrieved customer profile (block 516) [033], the request including a plurality of criteria, ([0008] the meeting package may be defined or reserved based on various meeting facility criteria input by the user, real time facility inventory, or facility reservation rules), (Figure 4 and [0029] meeting facility criteria are received (block 404) from the user via a graphical interface), [0030] a customer profile, a reservation rule, a reservation quota, and a meeting facility inventory are retrieved. Thereafter the retrieved

reservation rule is applied to determine whether the user input meeting facility criteria

satisfy the retrieved reservation rule [0033] a price for the defined meeting package is

generated based upon the retrieved customer profile. In one embodiment, customer

profile includes a customer type designation such as corporate or government which

entitles the designated customer to reduced prices for hotel guest room and other

services (pricing rule corresponding to a criterion) [0038] a meeting facility employee

may adjust room pricing values such as the corporate room rate and resource

availability such as the number or booked or available meeting rooms Figure 4 (404),

(410).

As per claim 28, Bingham discloses dividing one or more spaces into at least

one specific space (meeting room space) and at least one category space (number of

subdivisions in a meeting room space) and concurrently evaluating the at least one

specific space and at least one category space as part of the determining the availability

of the requested function space ([0039] air wall rule is a factor or multiplier which

describes the number of subdivisions a meeting room space can be divided into for

reservation using either physical dividers such as moveable room partitions, booths, etc.

or intangible means such as area or section assignments for each meeting or event; air

wall factor is utilized to determine capacity and availability of meeting room space and

as a reservation rule requiring that a certain number of meeting room subdivisions be

reserved or the reservation of subdivided meeting room space is acceptable). Patullo

teaches a user to specify a room number [0039] (This also is specific space as defined

in applicant's specification).

As per claim 29, Patullo teaches displaying a hierarchical relationship between said categories and their specific space components (paragraph [0033] the user is informed of the dates when a room category (for multiple categories) are unavailable).

[0065] For one embodiment the graphical representation will display a hierarchical relationship between categories and their specific space components. Tying the different types of bookings with the vertical axis, **allows the user to see the availability over a given time period for particular spaces as empty slots in graphical display.**

As per claim 33, Bingham discloses a method comprising:

a digital processing system receiving a request for a function space, the digital processing system comprising availability information for a plurality of function spaces at a plurality of properties in a common reservation table and a set of pricing rules, the request comprising a plurality of criteria and the pricing rules including pricing based on a time of year (Bingham discloses received meeting facility criteria including meeting room and guest room meeting facility resources. In the alternative embodiment, the received meeting facility criteria also include desired food and beverage service meeting facility resources (paragraph 0029) and a price for the defined meeting package is generated based upon the retrieved customer profile (block 516) (paragraph 0033), the request comprising a plurality of criteria, (paragraph 0008; discloses that the meeting package may be defined or reserved based on various meeting facility criteria input by the user, real time facility inventory, or facility reservation rules), (Figure 4 and

paragraph 0029; disclose meeting facility criteria are received (block 404) from the user

via a graphical interface), (paragraph 30) a customer profile, a reservation rule, a

reservation quota, and a meeting facility inventory are retrieved. Thereafter the retrieved

reservation rule is applied to determine whether the user input meeting facility criteria

satisfy the generated based upon the retrieved customer profile. In one embodiment,

customer profile includes a customer type designation such as corporate or government

which entitles the designated customer to reduced prices for hotel guest room and other

services (pricing rule corresponding to a criterion) (paragraph 0038) a meeting facility

employee may adjust room pricing values such as the corporate room rate and resource

availability such as the number or booked or available meeting rooms Figure 4 (404),

(410); criteria consisting of date (Figure 4), day-part, (Figure 9), current demand (Figure

11) and supplementary sales [0029][0034] (supplementary sales as defined by applicant

in the specification in paragraph [49]. For example, the price at which a ballroom for a

particular event is rented may be determined by consideration of many factors, including

the profit on supplementary sales, such as food and beverages served at the event, and

the number of guest rooms rented in conjunction with the Event).

determining an availability of the requested function space based upon some or

all of the availability information and one or more of the plurality of criteria, wherein said

determining comprises determining said availability on a quality-specific basis and said

availability is determined contingent on a threshold revenue for the space comprising

expected food and drink revenue associated with the request (Figure 5 (512) Are the

Specified Meeting Facility Resources Available for Reservation?, page 1, paragraph

0008, page 4, paragraph 0033. Bingham discloses received meeting facility criteria

including meeting room and guest room meeting facility resources. In the alternative

embodiment, the received meeting facility criteria also include desired food and

beverage service meeting facility resources (paragraph 0029) and a price for the

defined meeting package is generated based upon the retrieved customer profile (block

516) (paragraph 0033), the request comprising a plurality of criteria, (paragraph 0008;

discloses that the meeting package may be defined or reserved based on various

meeting facility criteria input by the user, real time facility inventory, or facility

reservation rules), (Figure 4 and paragraph 0029; disclose meeting facility criteria are

received (block 404) from the user via a graphical interface), (paragraph 30) a customer

profile, a reservation rule, a reservation quota, and a meeting facility inventory are

retrieved. Thereafter the retrieved reservation rule is applied to determine whether the

user input meeting facility criteria satisfy the generated based upon the retrieved

customer profile. In one embodiment, customer profile includes a customer type

designation such as corporate or government which entitles the designated customer to

reduced prices for hotel guest room and other services (pricing rule corresponding to a

criterion) (paragraph 0038) a meeting facility employee may adjust room pricing values

such as the corporate room rate and resource availability such as the number or booked

or available meeting rooms Figure 4 (404), (410); criteria consisting of date (Figure 4),

day-part, (Figure 9), current demand (Figure 11) and supplementary sales [0029][0034]

(supplementary sales as defined by applicant in the specification in paragraph [49]. For

example, the price at which a ballroom for a particular event is rented may be

determined by consideration of many factors, including the profit on supplementary

sales, such as food and beverages served at the event, and the number of guest rooms

rented in conjunction with the Event);

automatically providing a real-time price quote for the requested function space

based on the set of pricing rules, wherein the price quote includes a pricing discount

based on the attendance of the event (Paragraph 0033; discloses if sufficient meeting

facility resources are available to cover those desired by the user as described in the

meeting facility criteria then a meeting package definition is generated using the

specified meeting facility resources (block 514), a price for the defined meeting package

is generated based upon the retrieved customer profile (block 516), and the meeting

package definition; Figure 11 Reserve room for more then 7 nights and get 10% off;

Figure 5 (516) Price the Meeting Package Based on the Customer Profile; (Paragraph

0008) the meeting package may be defined or reserved based on various meeting

facility criteria input by the user, real time facility inventory data, or facility reservation

rules; real time (Page 1, paragraph 0008) a customer profile associated with the user

may be used to determine the price of the meeting package or its component resources.

The meeting package may be defined or reserved based on various meeting facility

criteria input by the user, real time facility inventory data, or facility reservation rules.

Figure 5 [516], page 4, paragraph 0033, page 5, paragraph 0038);

receiving an acceptance of the price quote for the requested function space from

a user (Figure 4 (416), Figure 5 (516), Figure 12 (confirmation number, grand total),

page 5, paragraph 0037).

establishing a reservation for the requested function space as category space
allocated for a length of time including setup and teardown for a selected setup style
and attendance (Figure 4 (416), Figure 5 (516), Figure 12 (confirmation number, grand
total), page 5, paragraph 0037. Page 5, paragraph 0039; discloses that there is both a
setup style and attendance with a certain dollar value associated with the food and
beverages in conjunction with a reservation and there is also a tear down and setup
time included in the "cutoff" days when another event can be planned in the same room
or area).

converting, after a delay, said reservation for the requested function space as
category space to a reservation for specific space, wherein the specific space is
selected from a set comprising an indivisible space and a configured space of combined
indivisible spaces (Figure 4 (410-416); discloses that there is a delay in the response of
the system in converting from a general request for a category of space such as a
conference room, to a specific confirmed conference room since the user must submit
and accept the terms before the room is reserved. In other words, while on the website
there are multiple users all attempting to reserve the same spaces, i.e. a delay to allow
for the sale of additional reservations during the time between when a reservation is
requested to the time the reservation is confirmed, wherein the confirmed reservation
(specific space) is selected from a set of available rooms).

Bingham does not explicitly disclose providing a price quote for the request
when it is determined that the request is unavailable or that if said function space is
unavailable, said reservation comprises an overbooking.

The applicant's specification discloses:

[0012] Embodiments of the invention provide systems and methods to provide an availability and price determination in response to a request for function space. For one embodiment, **a request** for a function space is received at a digital processing system that contains availability information and a set of pricing rules for one or more function spaces. The request includes a plurality of criteria. **An availability of the requested function space is determined based upon the availability information and one or more of the criterion. A price for the requested function space is determined based upon the set of pricing rules and one or more of the criterion.**

[0034] As described, embodiments of the invention ensure that a customer is quickly provided with a determination of availability and a price quote. This increases the likelihood that a reservation will be established. Further, embodiments of the invention help to ensure that all of the numerous and complex pricing rules will be employed to produce an accurate price quote. This helps to ensure that the price quote provided is competitive and Exploits market conditions to increase revenue. **For alternative embodiments, a price quote may be determined even where the requested function space is unavailable to establish an optioned reservation. The function space is maintained as**

unreserved and if it subsequently becomes available, a reservation is

established.

[0038] For purposes of illustrating an embodiment of the invention, central

reservation DPS 305 may be a central processing system and a database for a

multi-location hotel chain with customers and local sales manages accessing the

reservation management system 306 to obtain availability and pricing information

for function space at one or more individual properties. For example, a customer

could enter the specifics of **a function space reservation request** via a hotel

chain website and receive, in fairly short order, a definitive response in regards to

availability and pricing for the requested function space. This means the

customer no longer has to wait hours or das for a response and is therefore less

likely to inquire of competitors. **Additionally, or alternatively, a sales manager**

at an individual hotel property could enter the specifics of a function space

reservation request and receive a price quote based upon consideration of

a number of complex factors aimed at increasing revenue. This decreases

the likelihood that a sales manager will fail to consider one or more

revenue-increasing pricing factors.

Therefore, the Examiner is interpreting this limitation as simply providing a price

quote without regard to availability.

Patullo discloses direct price quote requests (Figures 4 and 5; discloses that the price quote given does not guarantee or promise availability of the desired suite, it simply gives a price quote based on the users search criteria) even if the request is unavailable on certain dates (paragraphs 0023, 0027 and 0031; disclose that this information is given out before the user is aware if there is availability in their requested room. While Figure 9, teaches that a room is not available from 5/1-5/6 with out price that is because the room is not for sale at all, as taught by paragraph 0033, this does not teach away from the concept of providing a price for a room for sale regardless of it is available, since this room is not for sale at all. A room might not be for sale at all for numerous reasons such as renovations or damage to property in this case the user could not be put on a waiting list since no matter what the room simply will not be up for sale or rental).

Therefore, from this teaching of Patullo, it would have been obvious to one of ordinary skill in the art to incorporate into the reservation system of Bingham the price quotes taught in Patullo so as to provide enhanced convenience for the user by providing the user with pricing package information after entry of the information into the request display. One would be motivated to include this information so that a user can have an idea of what prices are for different amenities and to comparison shop, finding out if they price information is in line with market rates. Often people use price quotes to get an idea how much a particular reservation request is going to cost and use these quotes in making a determination of which facility to commit to for a reservation. Therefore, it would have been obvious to provide a price quote to a user searching for

reservation information since in the reservation industry it is common business practice to provide a price quote to a user such as if one calls a hotel to get rates on single rooms, double rooms, luxury suites, rooms with balconies over the ocean, etc.

The combination of Bingham and Patullo teaches the above-enclosed invention, but fail to explicitly disclose wherein establishing the reservation for the requested function space further comprises accepting the reservation when the requested function space is unavailable, said reservation comprises an overbooking. The Examiner is taking this limitation to mean that when the space is not available the user is put on a waiting list or a list of people to contact if the space becomes available, based on applicants specification paragraph [0056].

Fiske, which talks about hotels reserving space in advance, teaches that guests can be placed on a waiting list so if a desired space becomes available due to another guest canceling they will be asked to fill the spot (Page 1, paragraph 2, lines 24-28; disclose that the hotel has reservations made for a particular spot in a hotel made during a particular and when they are full they keep an active waiting list to help them ensure the profit they expected and the customers with the space they desired).

Therefore, from this teaching of Fiske, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the reservation system provided by the combination of Bingham and Patullo, with the use of waiting lists taught by Fiske, for the purpose of providing flexible customers a chance to get their desired spot and to also ensure that the business makes the profit they are expecting so there is not lost revenue.

Response to Arguments

11.   Applicant's arguments filed April 7, 2008 have been fully considered but they are
not persuasive.

Rejection of Claims under 35 U.S.C. § 112

12.   In response to the applicant's argument that, "Thus, the test is not whether, "any
room no matter how small or large can be divided." The relevant test for definiteness is
whether one skilled in the art would understand what is meant by indivisible space,
which Applicants respectfully submit it is clear, in light of the present disclosure, to
anyone having stepped into a hotel event space with removable walls." The Examiner
respectfully disagrees; the recited passage from the applicant's specification states that
indivisible spaces are spaces that cannot be subdivided it makes no mention or
suggestion of removable walls. As stated in the above 112 rejection it is still unclear
from this passage what an indivisible spaces is or if one of skill would know this term to
have a specific meaning. Since the terminology is still unclear the rejection has been
maintained.

Rejection of Claims under 35 U.S.C. § 103

13.   As per applicant's argument that the cited sections of Bingham and Patullo do
not teach or suggest all elements of Applicants' recited Claim 1, specifically that the
Examiner has made an error in interpreting the recited limitations "automatically
providing a real-time price quote for the requested function space based on the set of
pricing rules in spite of having determined that the requested function space satisfying

the one or more of the plurality of criteria is unavailable". The Examiner respectfully

disagrees as currently claimed, Claim 1 recites that "in spite of having determined that

the requested function space satisfying the one or more of the plurality of criteria is

unavailable", from this it is taken that the space could be available or unavailable,

Patullo teaches in at least figure 5 that the price quote given is not based on availability

therefore covering both available or unavailable spaces. All the limitations of this claim

are covered since Bingham is providing the criteria selection and Patullo is showing that

a price quote can be given for both available and unavailable spaces. Further the

applicant's argument that "there is an absence from the combination of Bingham with

Patullo of the teaching or suggestion of quote of price without regard to availability

undermines the present Office Action's prima facie case of obviousness by eliminating

from the combination a recited element", the Examiner respectfully disagrees as stated

in the Office Action Figure 5 of Patullo teaches the concept of **Availability Not

Confirmed,** from this it is shown that the limitation of a price quote for both available

and unavailable spaces is met by the Patullo reference in that the quote is given for

both spaces. Further, Bingham discloses that the criteria are submitted in real time

(Page 1, paragraph 0008).

14.   In response to the applicant's argument that, "Applicants respectfully note that

condensing the recited "automatically providing a real-time price quote for the requested

function space based on the set of pricing rules" to "providing a price quote" unfairly

edits the claim so as to render meaningless the words actually used in the claim," the

Examiner respectfully disagrees. The rejection is based on several references

combined to teach the limitation. Patullo was used to teach the concept of "providing a price quote without regard to availability", since the figures show that the availability has not been confirmed at the time the quote was given. Bingham discloses "automatically providing a real-time price quote for the requested function space based on the set of pricing rules" as shown above. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As discussed above, Patullo teaches the concept of **Availability Not Confirmed**, from this it is shown that the limitation of a price quote for both available and unavailable spaces is met by the Patullo reference in that the quote is given for both spaces. Further, Bingham discloses that the criteria are submitted in real time (Page 1, paragraph 0008), combined they teach the entire recited limitation as currently written.

15.   In response to the applicant's argument that, Patullo fails to show "the notion of a quote of a price in spite of having determined unavailability is entirely absent. The cited text certainly neither teaches nor suggests "automatically providing a real-time price quote for the requested function space based on the set of pricing rules in spite of having determined that the requested function space satisfying the one or more of the plurality of criteria is unavailable," the Examiner respectfully disagrees. Patullo was used in the rejection to teach direct price quote requests even if the request is unavailable, Figure 5 clearly shows a search result with price quotes for various accommodations, it also states that this availability is not confirmed so these are the

prices for both available rooms currently not reserved or possibly even for rooms

currently reserved. From this it is shown that the price quote is given regardless if the

room is reserved by someone else and hence teaches quote of a price in spite of having

determined unavailability. While Patullo itself is not used for the limitation of determining

if a room is unavailable or reserved it does clearly show that the price quote is given

regardless of this fact.

16.   In response to applicant's argument that "that the Patullo teaches away from the

recited "automatically providing a real-time price quote for the requested function space

based on the set of pricing rules in spite of having determined that the requested

function space satisfying the one or more of the plurality of criteria is unavailable", the

fact that applicant has recognized another advantage which would flow naturally from

following the suggestion of the prior art cannot be the basis for patentability when the

differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd.

Pat. App. & Inter. 1985). Further figure 8 nor figure 9 of Patullo were used to teach the

limitation of providing a price quote for selected spaces regardless if it is available or

not, Figure 5 was for this reason and Figure 5 displays of no warning of unavailable

rooms. Since the Examiner has used figure 5 to teach this limitation, the Examiner

respectfully disagrees that it teach away from the applicant's invention and asserts that

figure 5 shows the limitation as currently claimed. Figure 9 as well as the underlined

sections of paragraph 0033 are another embodiment of the invention separate from

Figure 5. The Examiner has used Figure 5 to show that the price quote is given for a

requested space regardless if that space is available or not which meets the limitations

of the claims as currently written. In other words, if the space is available or the space is unavailable the price will be given to the customer.

Further figure 9 itself does not teach away from the applicants' recited claim limitation, since the "withholding a price" is for a room that is not for sale at all. Paragraph 0033 clearly states that the room is unavailable for sale meaning that is not rented at all. This is not an indication that the room is currently reserved and therefore there is no price, rather it is an indication that the room can not be reserved by anyone at this time due to some unknown means. A room might not be for sale at all for numerous reasons such as renovations or damage to property in this case the user could not be put on a waiting list since no matter what the room simply will not be up for sale or rental. The rest of the rooms are still showing prices for rooms that could possibly be reserved and hence can not be reserved which still meets the limitation of the claim as currently written. The reference therefore does not contradict human nature nor does it teach away from the Applicants' recited claim limitation.

17.   In response to the applicant's argument, that "a previous determination, is not taught or suggested by the combination of references," the Examiner respectfully disagrees. The newly recited limitation of "determining that the requested function space satisfying the one or more of the plurality of criteria is unavailable" is found in Bingham has cited above page 4, paragraph 0033; discloses that method includes determining if the requested function space is unavailable based on one or more of the plurality of criteria. Further when combined with Fiske the references teaches that after determining a room is unavailable at this time for a given price the customer is offered to be put on a

waiting list. With all three references the limitation is met since it is obvious that a

person would not agree to be put on a waiting list, if the room was not first established

to be unavailable or reserved and second determined for a particular price. The concept

of a waiting list or a list to call incase the person reserving the room is old and well

known and it would have been obvious to one of ordinary skill in the art at the time of

the invention that the customer would be told how much they are expected to pay for a

room if they are notified that the previous reservation has been cancelled. Without this

notification the customer could be put on a waiting list for a room they can not afford.

18.   In response to the applicant's argument that, "the combination of Patullo with

Bingham does not teach "automatically providing a real-time price quote for the

requested function space based on the set of pricing rules in spite of having determined

that the requested function space satisfying the one or more of the plurality of criteria is

unavailable," either through Figure 5 or elsewhere. The combination of Patullo with

Bingham does teach away from "automatically providing a real-time price quote for the

requested function space based on the set of pricing rules in spite of having determined

that the requested function space satisfying the one or more of the plurality of criteria is

unavailable," by displaying unavailability as a substitute for price," the Examiner

respectfully disagrees. As state above Figure 9 is referenced to another embodiment of

the Patullo invention, and further still does not teach away from the claimed invention

since it merely states that no one can reserve this room for any price cause it is not for

sale. It does not teach a substitution of unavailable for price regarding a room that is

capable of being reserved. Figure 5 and Figure 9 both disclose that of the room that can

be reserved the price is shown and that price displayed regardless if that room is currently reserved. Further the Examiner notes that the combination is not merely Bingham and Patullo, it is Bingham, Patullo and Fiske, as mentioned above with all three references the limitation is met since it is obvious that a person would not agree to be put on a waiting list, if the room was not first established to be unavailable or reserved and second determined for a particular price. The concept of a waiting list or a list to call incase the person reserving the room is old and well known and it would have been obvious to one of ordinary skill in the art at the time of the invention that the customer would be told how much they are expected to pay for a room if they are notified that the previous reservation has been cancelled. Without this notification the customer could be put on a waiting list for a room they can not afford. That being said the rejection does not teach away from the currently claimed invention but rather reads on the claims as currently written and does articulate a prima facie case of obviousness when combined.

19.   All rejections made towards the dependent claims are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically point out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and unpatentable over Bingham and in view of Patullo, further in view of Fiske.

Conclusion

20.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

21.   Nicole McGill, "If sale items not on shelf, ask manager", October 21, 1998,

Times-Union staff writer, Florida Times Union, Jacksonville, Fla. pg A2. Teaches that it

is old and well know to get the price of an unavailable item such as in the cash of rain

check for an item that is no longer in stock the customer is granted a slip that entitles

them to that item or an equal item at the set price.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to PAUL R. FISHER whose telephone number is (571)270-

5097. The examiner can normally be reached on Mon/Fri [8am/4:30pm].

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Janice Mooneyham can be reached on (571)272-6805. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PRF

/Dennis Ruhl/

Primary Examiner, Art Unit 3689